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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/682,464	10/09/2003	Valery Kanevsky	10021270-1	9219

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AGILENT TECHNOLOGIES, INC.
Legal Department, DL429
Intellectual Property Administration
P.O. Box 7599
Loveland, CO 80537-0599

EXAMINER

CHERRY, STEPHEN J

ART UNIT	PAPER NUMBER
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2863

MAIL DATE	DELIVERY MODE
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08/04/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/682,464

Applicant(s)

KANEVSKY ET AL.

Examiner

Stephen J. Cherry

Art Unit

2863

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13-25, 54 and 55 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13-19, 22, 25, 54 and 55 is/are rejected.
- 7) ☒ Claim(s) 20, 21, 23 and 24 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10-9-2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7-18-2008 has been entered.

In the amendment dated 6-23-2008, claim 13 was amended, and new claims 54 and 55 presented. Claims 1-12, and 26-53 are cancelled, with claims 13-25 and 54-55 presently in the application.

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 13-19, 22, 25, 54 and 55 are rejected under 35 U.S.C. 102(b) as being anticipated by GB 2 344 026 to Spicer.

Regarding claim 13, Spicer discloses s measurement method using mobile probes comprising:

providing a model of a physical variable, including one of (i) an environmental variable ('026, page 4, line 21 and page 6, line 17) and (ii) a user behavior variable, to a mobile measurement device;

making measurements of the modeled physical variable with said mobile measurement device ('026, page ('026, page 5, line 18 and page 6, line 16);

evaluating, by said mobile measurement device, new measurements, using said model ('026, page 6, line 1 and page 6, line 19); and

augmenting said model using said new measurements ('026, page 6, line 7 and abstract, "use by both user and service provider" requires that ability condition was saved and made available to both user and service provider, thereby augmenting provided model).

Regarding claim 14, and in view of the rejection of claim 13, Spicer discloses the method of claim 13 wherein said model on said mobile measurement device is augmented ('026, page 6, line 7 and abstract, "use by both user and service provider" requires that ability condition was saved and made available to the model in the mobile device, thereby augmenting the model).

Regarding claim 15, and in view of the rejection of claim 13, Spicer discloses the method of claim 13 wherein a model in a measurement system that provided said model to said mobile measurement device is augmented ('026, page 6, line 7 and abstract, "use by both user and service provider" requires that ability condition was saved and made available to the service provider, thereby augmenting the service provider model model).

Regarding claim 16, and in view of the rejection of claim 13, Spicer discloses the method of claim 13 wherein said model provided to said mobile measurement device comprises a portion of a central measurement system model ('026, page 4, line 22, and page 6, line 17).

Regarding claim 17, and in view of the rejection of claim 13, Spicer discloses the method of claim 13 wherein said evaluating further comprises determining if the new measurements reinforce said model, and said augmenting comprises noting said reinforcement in said model ('026, page 6, lines 1-12, storage of "ability" condition resulting from comparison, positive comparison results are interpreted as reinforcing the model).

Regarding claim 18, and in view of the rejection of claim 13, Spicer discloses the method of claim 13 wherein said evaluating further comprises determining if the new measurements detract from said model ('026, page 6, lines 1-12, storage of "ability" condition resulting from comparison, negative comparison results are interpreted as detracting from the model).

Regarding claim 19, and in view of the rejection of claim 18, Spicer discloses the method of claim 18 wherein said evaluating further comprises evaluating the accuracy of a detracting measurement ('026, page 6, line 19, determination of confidence).

Regarding claim 22, and in view of the rejection of claim 19, Spicer discloses the method of claim 19 further comprising adding new measurements to said model when said new measurements improve said model ('026, page 6, line 7).

Regarding claim 25, and in view of the rejection of claim 13, Spicer discloses the method of claim 13 wherein said mobile measurement device comprises:

communication capabilities for communicating said measurements and an augmented model to a measurement system ('026, page 6, line 7, results retrieved at later time by service provider requires communication capabilities);

computational resources available for carrying out said evaluation; and measurement capability ('026, page 5, line 15, "processor 204").

Regarding claim 54, and in view of the rejection of claim 13, Spicer discloses the method of claim 13, wherein the environmental variable includes one of a chemical variable, a toxin variable, a biological variable, a noise variable, and a radiation variable ('026, page 4, line 21 and page 6, line 17).

Regarding claim 55, and in view of the rejection of claim 13, Spicer discloses the method of claim 13, wherein the providing a model of a physical variable to a mobile measurement device includes providing the model over a geographical area ('026, page 4, line 21 "signal strengths at a given position in a geographical area").

Allowable Subject Matter

Claims 20-21, and 23-24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims, and to overcome other claim objections.

The following is a statement of reasons for the indication of allowable subject matter:

Claim 20 recites, "discarding faulty measurements". This feature, in combination with remaining claim limitations, overcomes the prior art of record.

Claim 21 recites, "replacing existing measurements in said model with measurements that improve said model". This feature, in combination with remaining claim limitations, overcomes the prior art of record.

Claim 23 recites, "said evaluating further comprises determining if data in said model for a location of a new measurement is sufficient, and adding said new measurement to said model in response to said model having insufficient data for said location of said new measurement". This feature, in combination with remaining claim limitations, overcomes the prior art of record.

Claim 24 recites, "wherein said mobile measurement device is a wireless telephone, said variable is an RF field strength at a location and said model is a model of RF field strength for a geographical area". This feature, in combination with remaining claim limitations, overcomes the prior art of record. It is noted that Spicer discloses a system for confirming an ability of a user to receive a signal; however, in a

wireless telephone, the central facility is always aware of communication with remote devices.

Response to Arguments

Applicant's arguments filed 6-23-2008 have been fully considered but they are not persuasive. Regarding claim 13 and dependent claims, applicant argues that Spicer does not disclose user behavior variables, however, this limitation in the claim is present in the alternative with an environmental variable. An environmental variable is interpreted as a variable present in the environment, and this would include the signal strength that is measured at geographical locations, as disclosed by Spicer and described in the rejection above.

Regarding claim 54, applicant argues that Spicer does not disclose a radiation variable, Spicer measures a signal strength, which is a measure of RF radiation.

Regarding claim 55, applicant argues that Spicer does not disclose a geographical area; however, this is explicitly disclosed at page 4, line 25 of Spicer.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Cherry whose telephone number is (571) 272-2272. The examiner can normally be reached on M-F 8:00-4:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached on (571) 272-2269. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SJC
/Bryan Bui/
Primary Examiner, Art Unit 2863